STAMP AND RETURN

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Request to Update Default Compensation Rate For Dial-Around Calls from Payphones	)	WC Docket No. 03-225
	)	

COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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Dated: January 7, 2004

SUMMARY

The current per-call payphone compensation rate of $.24 was set nearly five years ago. In that five-year period, with the boom in wireless communications the payphone industry realities underlying the $.24 rate have undergone profound change, necessitating a reexamination of the rate. Yet, payphone service remains a unique and important means of communication since it is priced per use, is universally accessible wherever and whenever needed, and is available to all users without a subscription. Payphones are needed and used by all segments of the public – even those with wireless mobile phones – and is literally a lifeline for people facing emergencies and for the millions of users who have no residential phone service.

The ready, affordable access to the network that payphones provide is eroding, however. Since 1998, payphone deployment has shrunk 31 percent, and the decline is accelerating. The Commission must act now to halt the decline in payphone deployment that is frustrating the "widespread deployment" policy of Section 276 of the Communications Act.

The American Public Communications Council ("APCC") has submitted a cost study that applies the methodology approved by the Commission in its 1999 order setting the $.24 rate. Continuing application of that methodology, based on dividing the joint and common costs of payphones by the number of calls made at a "marginal" payphone, is necessary to ensure that there is an adequate supply of payphones and that dial-around calls recover their proportionate share of the joint and common costs of payphones.

Increasing the dial-around compensation rate will not cause a reduction in total payphone revenues. Assuming that there is any significant demand elasticity effect

related to the price of dial-around calls, it is the total price of those calls – which often includes very high service charges and usage charges as well as a 100% markup of the dial-around rate – that would be responsible for such effects. Moreover, there is no reason to assume that increased dial-around call rates would cause significant migration of users to wireless service. Payphone service and wireless service are not perfect substitutes. Increased use of wireless services is driven to a great degree by the greater convenience of wireless phones, as opposed to the relative prices of payphones and wireless service.

In addition, the dial-around scheme contains market safeguards – including the opportunities for payphone service providers ("PSPs") to accept a lower rate and for interexchange carriers ("IXCs") to block calls – to prevent excessive rate increases. In any event, fundamental constitutional principles as well as the Commission's own market-oriented policies preclude the Commission from denying PSPs full recovery of costs for any reason, including unsubstantiated fears of demand suppression.

The cost study submitted by APCC faithfully follows the Commission's approved methodology. APCC merely updated the inputs, added an additional cost category for collection costs, and adjusted for bad debt by including in the call count only those dial-around calls for which PSPs were actually compensated. By utilizing a randomly selected sample from a base of more than a thousand diverse PSPs and hundreds of thousands of payphone locations, APCC has ensured that its cost study accurately reflects the diverse cost characteristics present in the independent payphone industry. Indeed, the inputs in APCC's cost study are almost certainly more accurate than those used by the Commission in its 1999 order. The study's results show that a compensation rate of $.484 per call is necessary to permit PSPs to recover the costs of marginal payphones and thereby to maintain a minimally adequate level of payphone deployment.

Inclusion of the two cost factors added by APCC's cost study – collection expenses and bad debt – are clearly supported by precedent, and the study's method of factoring those costs is fully justified and designed to produce conservative results. Further, given the Commission's repeated recognition of the major difficulties involved in collecting dial-around compensation, especially from switch-based resellers, it would be utterly inconsistent for the Commission to decline to include collection expenses and bad debt in setting the dial-around rate.

Existing precedent does not permit the Commission to take revenues from non-telecommunications services, such as advertising and internet terminals, into account in setting the dial-around rate. Advertising is wholly incidental to the purpose for which payphones are installed. Further, neither advertising nor internet terminals are significant enough revenue sources to warrant their consideration in setting a rate, especially where the rate is designed to ensure continued deployment of *marginal* payphones, which are most unlikely to either attract advertising or be converted into internet terminals.

It is not necessary or appropriate to consider the costs of second-hand payphone equipment in setting the dial-around rate. The price of new payphone equipment already reflects the availability of second-hand equipment.

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The American Public Communications Council ("APCC") submits the following comments in response to the *Notice of Proposed Rulemaking* ("*NPRM*"), FCC 03-265, released October 31, 2003. In the *NPRM* the Commission requests comment on "whether to modify the default rate of payphone compensation for 'dial-around' calls set forth in section 64.1300(c) of our rules." *NPRM*, ¶ 1. The Commission released the *NPRM* in response to petitions by APCC and the Regional Bell Operating Companies ("RBOCs"). *See* APCC, "Request That the Commission Issue a Notice of Proposed Rulemaking (or in the Alternative, Petition for Rulemaking) to Update Dial-Around Compensation Rate," filed August 29, 2002 ("APCC Petition"); RBOC Payphone Coalition, "Petition for Rulemaking to Establish Revised Per-Call Compensation Rate," filed September 4, 2002 ("RBOC Petition").[1]

Both petitioners submitted cost studies with their petitions demonstrating the need to increase the current dial-around compensation rate of $.24 in order to recover per-call costs. Using a conservative methodology, the APCC's cost study concluded

[1] The RBOC Coalition consists of BellSouth Public Communications, Inc., SBC Communications, Inc. and the Verizon telephone companies.

that the compensation rate necessary to recover the costs of marginal payphones is $.484 per call.[2]

I. INTRODUCTION

The Commission's responsibilities with respect to the payphone industry are clear. The Commission must "prescribe regulations" that "promote the widespread deployment of payphone services to the benefit of the general public." 47 U.S.C. § 276(b)(1). To that end, the Commission must "establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call. . . ." 47 U.S.C. § 276(b)(1)(A). In establishing a compensation plan, the Commission appropriately "place[s] great weight on Congress's directive to ensure that payphones remain widely deployed and available to the public at large. . . ." *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Third Report and Order, 14 FCC Rcd 2550, ¶ 10 (1999) ("*Third Payphone Order*").

In its last effort to respond to these statutory directives, the Commission, in the *Third Payphone Order*, established a $.24 rate for dial-around calls. In setting the $.24 rate, the Commission understood that the rate would need to be revised after three years if market realities changed. *Third Payphone Order* at 2647-48, ¶ 230. As anticipated by the Commission, the market for payphone services has changed dramatically and yet the dial-around rate has been in effect for nearly five years. As the Commission recognized in the *NPRM*, payphone deployment has decreased significantly since 1999 and the trend continues unabated. *NPRM*, ¶ 15. The $.24 rate no longer supports the

2 The RBOC Cost Study employed a slightly different methodology than APCC, but derived essentially the same per-call rate of $.49. RBOC Petition at 1.

widespread deployment of payphones; the dial-around rate must be increased substantially to reflect those market changes.

II. THE COMMISSION MUST ACT TO ENSURE THE WIDESPREAD DEPLOYMENT OF PAYPHONES

A. Why Payphones Are Important

Approximately 1.5 million payphones throughout the country play a unique and critical role in providing Americans with access to the telecommunications network. FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service*, Table 7.6 (August 2003). Even with the boom in wireless communications, roughly half of all Americans still do not own a wireless phone and many, for financial or other reasons, never will. *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, Eighth Report, WT Docket No. 02-379, FCC 03-150, ¶ 17 (July 14, 2003). Moreover, five million households do not have any telephone at all; for the individuals in these households, payphones are the primary means of placing calls. FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Telephone Subscribership in the United States*, Table 1 (November 2003).

Payphone service is a unique service that is used in every strata of society in all neighborhoods and regions of the country. Payphone service is a dial-tone-on-demand, per-use-priced wireline service available twenty-four hours a day, seven days a week, 365 days a year. Users are not required to make an initial investment in equipment, await activation of the service or pay recurring monthly charges. No other communications service has these characteristics.

Victims of domestic violence and child abuse (and other callers who do not want a record of the call available to family members) must rely on payphones. Payphones are used by many Americans for local or 800 calls to social service agencies (employment, homeless shelters, social security, etc.). It is not surprising therefore that more than 300 community associations and social service organizations have expressed their support for ready access to payphones. *See e.g.*, Letter to Chairman Michael K. Powell, FCC, from Cathy Jackson, Community Voice Mail, and 317 other community service organizations, June 6, 2001, submitted in *Wisconsin Public Service Commission*, CCB/CPD No. 00-1.

Even for the half of the population that does have wireless phones, payphones remain a critical supplementary method of accessing the public communications network. Wireless phones often get left at home or the office, have dead batteries, experience weak or non-existent signals or encounter network congestion.

The limits of wireless service and the value of reliable payphone service were demonstrated this past summer during the power failure that hit much of the northeast. By one account "payphones pulled a Clark Kent trick . . . morphing into the superheroes of urgent, reliable communications for millions of stranded and stressed Northeasterners." *Payphone Served Valuable Role During Blackout as Call Volumes More Than Tripled at Verizon's Curbside Phones*, PR Newswire (August 20, 2003). Wireless phones, on the other hand, failed as a result of congestion and the lack of power. If it were not for the availability of payphones, many people would have been unable to tell loved ones that they were stranded or have arranged for alternative ways home.

Moreover, unlike payphone service, wireless service is limited by topography. Mountainous terrain can block wireless signals. The West Virginia Payphone Task

Force has noted that wireless phones, while convenient to some, are not helpful to others because there are many areas in West Virginia "where cellular phone service simply isn't available" because of the topography of West Virginia. West Virginia Public Service Commission, Payphone Task Force, *Sixth Interim Report* at 3 (2003) ("*West Virginia Report*").[3] Payphones play an indispensable role in mountainous areas.

While payphones are valuable to everyone, they are perhaps most critical to those who cannot afford either a wireless phone or a home phone. As discussed above, as of March 2003, approximately 5 million households did not have a home phone. *Telephone Subscribership in the United States*, Table 1. Most of these households are poor and a disproportionate number of them are minorities. *Id.*, Tables 4 and 7. Ready, affordable access to the network through payphones is vital for this group. *See, e.g.*, Rob Borsellino, *Yanking pay phones is like pulling the plug on people's lives*, Sun-Sentinel (Palm Beach County, FL), Feb. 22, 2001; *The end of the line; the poor and elderly are among those most disadvantaged as pay phones disappear from our streets*, The Record (Bergen County, NJ), May 6, 2001; Stephanie Kirchgaessner, *Vanishing from the landscape; Payphones in the US*, Financial Times (London), May 16, 2001. For those without a home phone, the removal of a payphone from their neighborhood means that their access to the public telecommunications network has been effectively severed.

The availability of payphones is also critical for residents of rural areas, small towns, and Tribal Lands.[4] When the only payphone in a small town is removed,

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[3] Following the deregulation of payphones by the Federal Communications Commission, the Public Service Commission instituted a general investigation of the payphone market in West Virginia in 1998, and created a payphone task force to monitor the development of the payphone market. Annual reports have been presented to the Commission since 1998. The Payphone Task Force's *Sixth Interim Report* is available on the internet at http://www.cad.state.wv.us/03pp%20Survey.htm.

[4] With regard to payphones in Tribal Lands, *see, e.g.*, Joe Gardyasz, *Shrinking revenues lead to a few less payphones*, Bismarck Tribune (Bismarck, ND), Apr. 11, 2001.

everyone who relied on that payphone for their communications needs loses access to the public communications network. As explained by the West Virginia Payphone Task Force, "after the general decline in payphone availability, removal of even a single payphone can have a dramatic impact on rural areas." *West Virginia Report* at 5.

Finally, quick access to a payphone is frequently a matter of critical importance — to report a crime in progress or to summon emergency rescue help. *See, e.g.*, Barbara Egbert, *It was a dark and stormy night. Really*, The Mercury News (San Jose, CA), Mar. 6, 2001 (payphones necessary for emergencies); Shienne Jones, *Lack of payphones makes campus unnecessarily dangerous*, Daily Reveille (Baton Rouge, LA), Apr. 18, 2001.

Thus, because of their affordability and reliability, payphones are used by all segments of the public for many purposes, including as a supplement to wireless services, and are used by millions of Americans as a communications means of last resort. *See, e.g.*, Liza Mundy, *Hearing the call, If you're on the wrong side of the digital divide, what does it take to get by? Thirty-five cents and a glimmer of hope*, The Washington Post Magazine, Sept. 2, 2001 (describing the wide-ranging types of calls made at payphones at an Arlington, Virginia subway station). If the Commission fails to increase the dial-around rate, this unique form of communications will no longer be widely available, as required by Congress.

B. The Accelerating Rate Of Payphone Removal

The ready, affordable access to the network that payphones provide is eroding. In 1998, according to Commission data, the number of payphones deployed was about 2.15 million. *See Third Payphone Order* at 2629, ¶ 184 n.390. The Commission found that this level of deployment was consistent with Congress's goal of widespread deployment of payphones. *Id.* at 2610, ¶ 143.

After 1998, however, the number of payphones deployed began to drop.[5] Between March 1999 and March 2000, the number of payphones dropped to 2.06 million, a decrease of about three percent. *Trends in Telephone Service,* Table 7.6. Between March 2000 and March 2001, the number of payphones decreased by approximately seven percent, to 1.92 million. *Id.* Between March 2001 and March 2002, payphone deployment fell to 1.71 million, an additional drop of approximately 11 percent. *Id.* And since March 2002 the decrease has accelerated even more; between March 31, 2002 and March 31, 2003, the number of payphones dropped to 1.49 million, a decrease of 13 percent. *Id.* Thus, since 1998, payphone deployment has shrunk an incredible 31 percent and the trend has been accelerating.

Most troubling, the evidence suggests that the downward trend will continue if per-phone revenues do not increase. Davel Communications, Inc., a publicly traded independent payphone service provider ("PSP"), reported in its third quarter financial results that "[a] significant reduction in the number of payphones is expected in the fourth quarter of 2003 in an effort to improve profit margins." *Davel Communications, Inc. Reports Third Quarter 2003 Financial Results,* Business Wire (November 14, 2003).

The Commission must act to stop the strong trend of declining payphones. Increasing the dial-around compensation rate to reflect current costs is a critical step in reversing this negative trend and promoting the widespread deployment of payphones.

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5 Although wireless has grown rapidly since its inception in 1985, it was in 1998, when wireless carriers introduced nationwide flat rate plans, that the demand for wireless really exploded. In the last five years, the number of wireless customers has more than doubled, from about 60 million in mid-1998 to over 140 million as of December 2002. *See Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones,* Report and Order, 18 FCC Rcd 16753, ¶ 7 (2003).

III. THE METHODOLOGY USED IN THE *THIRD PAYPHONE ORDER* REMAINS APPROPRIATE

The Commission should calculate a new dial-around rate by reapplying the methodology used in the *Third Payphone Order*.

A. Applying The Methodology In The *Third Payphone Order* Will Encourage An Appropriate Level Of Payphone Deployment

In the *Third Payphone Order* the Commission prescribed the level of the dial-around rate with the objective of maintaining the level of payphone deployment that existed at that time constant. *Third Payphone Order* at 2552, ¶ 15. APCC's cost study, prepared for APCC by the economic and regulatory consulting firm of Wood & Wood ("the APCC Cost Study") applies the same methodology as the *Third Payphone Order* with the objective of preserving many of the payphones that are *currently* deployed but that will eventually be disconnected if the dial-around rate does not increase. APCC's proposed dial-around rate is not designed to, nor would it, bring the level of payphone deployment back to that which existed in 1999.[6]

The need to preserve the current level of payphone deployment is exemplified by the report submitted by West Virginia's Payphone Task Force. To complete the report, the Task Force received data directly from municipalities. In addition, engineers from the West Virginia Public Service Commission did extensive on-site reviews of payphone locations. With this first-hand knowledge at its disposal, the Task Force concluded that "the substantial decline in the number of payphones in West Virginia over the last two years means that many areas – especially rural areas – are now on the edge of market

[6] It may be appropriate to return to the 1999 level of payphone deployment, or some level of deployment greater than the current level, for national security or other reasons. This issue, however, is best addressed in other proceedings.

failure" *West Virginia Report* at 1. The Task Force noted that there were at least a few areas where "market failure" had already been experienced.

B. Applying The Methodology In The *Third Payphone Order* is Needed To Redress The Disproportionate Allocation Of Joint And Common Costs To Coin Calls

The Commission, in the *Third Payphone Order*, determined that the dial-around rate should be set so that dial-around calls recover a proportionate share of joint and common costs. The Commission explained that

> In the Second Report and Order, the Commission, in establishing a default compensation amount, found that *fair compensation required* that dial-around calls contribute a *proportionate* share of the common costs of payphone service. We continue to believe that this is an essential element of our determination of 'fair compensation' in this context. We find that any other approach would unfairly require one segment of payphone users to disproportionately support the availability of payphones to the benefit of another segment of payphone users. Such subsidies distort competition and appear inconsistent with Congress's directive to eliminate other types of subsidies.

Third Payphone Order at 2570, ¶ 157.

Since the *Third Payphone Order* was released, the local coin rate has increased from $.35 to $.50 while the dial-around rate has remained artificially capped. As call volumes have decreased, PSPs have been forced to make up for the shortfall by relying exclusively on increases in the coin rate. As a result, dial-around rates no longer recover a proportionate share of the joint and common costs of a payphone.[7] Increasing

[7] Apart from being unfair and inconsistent with the Communications Act and the Commission's prior decisions, having coin callers support more than their share of joint and common payphone costs is economically inefficient because the elasticity of demand for coin calls is likely greater than the elasticity of demand for dial-around calls. Thus, based on Ramsey pricing principles, if anything, dial-around calls should recover a greater share of PSPs' joint and common payphone costs than coin calls. APCC recognizes that the Commission, in the *Third Payphone Order*, concluded that it

the dial-around rate so that it better reflects market realities and so that dial-around callers pay for a greater share of joint and common costs is an independent reason for increasing the dial-around rate.

C. The Commission Should Not Abandon The Methodology In The *Third Payphone Order* Based On The Incorrect Theory That Dial-Around Service Is Price Elastic

Some interexchange carriers ("IXCs") have argued that increasing the dial-around rate will reduce payphone revenues. This is incorrect. Like most businesses, PSPs are keenly aware of the tradeoff between payphone rates and revenue. It should be presumed that PSPs behave in an economically rational manner and would not assess an increased dial-around rate if the result would be decreased revenues.

Moreover, when making a decision of whether or not to use a payphone, end users do not look at the dial-around rate, but rather at the final rate charged by the IXC. The dial-around rate is only a fraction of the total rate assessed by the IXC, and for the IXCs to examine the dial-around rate in isolation is disingenuous. If there are any circumstances where demand for dial-around calling is suppressed due to price elasticity, such suppression is likely to result from high operator service surcharges and per-minute rates that are frequently assessed by IXCs, independently of whether the call is made from a payphone. For example, the AT&T consumer catalog states that AT&T assesses a per-call surcharge of $1.50 on interstate calls placed with an AT&T calling card. <http://www.shop.att.com/offer/terms/0,15516,service=cc&portal=shop-att&offer=shop_cacc,00.html>. For automated collect calls placed by dialing 1-800-

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(Footnote continued)
did not have sufficient information to estimate the elasticities of various types of payphone calls. *Third Payphone Order* at 2583, ¶ 86. However, here APCC is simply commenting on the likely relative size of the elasticity of demand for coin calls compared to that for dial-around calls.

CALLATT, AT&T charges $.99 per minute plus a $3.99 service charge. <http://www.serviceguide.att.com/ACS/ext/doc/1800CALLATT%20Collect%20%2D%20guide1%2Edoc>. According to MCI's General Service Agreement for Residential Customers, MCI's basic interstate automated calling card rate is $1.25 per minute plus a $1.75 service charge. For automated collect calls using 1-800-COLLECT, MCI currently charges $.99 per minute plus a $4.99 surcharge. *See* http://www.1800collect.com/docs2/-rates.html. IXCs cannot even colorably claim that a higher dial-around rate on payphone callers would suppress demand, when the total rates IXCs charge callers frequently for exceeds the requested increase in the dial-around rate.

Moreover, major IXCs assess a "markup" of up to 100% on their payphone compensation payments. For example, in addition to the regular rates that AT&T charges for a calling card, AT&T assesses a $.47 per-call charge on payphone calls, about twice the $.24 dial-around rate. http://serviceguide.att.com/ACS/ext/doc/-Payphone%20Comp%20%2D%20guide11%2Edoc. It seems unlikely that IXCs could succeed in imposing such markups if the demand for dial-around calls was highly elastic.

In any event, the dial-around compensation scheme contains built-in safeguards against excessive and counter-productive rate increases. First, the dial-around rate set by the Commission is not a "floor." The Commission's regulations make clear that PSPs and IXCs are free to agree on a different rate. 47 CFR §64.1300(a). As discussed above, PSPs are aware of the trade off between price and quantity, and can be expected to avoid charging IXCs the maximum permissible dial-around rate if they conclude that the maximum rate does not maximize revenues. Second, the IXCs themselves can implement call blocking to encourage PSPs to agree to reduce the dial-around compensation rate, if they conclude that the rate could or does depress demand for their payphone-originated services. Indeed, the Commission, in the *Third Payphone Order*, encouraged the IXCs to implement call blocking. *Third Payphone Order* at 2575, ¶ 67. However, wishing to avoid the expense of call blocking IXCs would prefer instead that the Commission maintain the default rate below PSPs' costs.

In implementing Section 276, the FCC has consistently sought to rely on market forces wherever feasible to ensure that compensation is fair. It would be utterly inconsistent for the Commission now to conclude that the default rate must be maintained artificially low to protect PSPs from those same market forces. *See* 47 U.S.C. § 276(b)(1) (FCC must implement fair compensation so as to "promote competition").

In any event, Section 276 of the Act prohibits the Commission from failing to prescribe a fair rate for dial-around calls based on speculation that the demand for dial-around calls is too elastic to permit a significant rate increase. To survive Constitutional scrutiny, rates prescribed for carriers by the FCC must "enable [a] company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risk assumed. . . ." *Federal Power Commission v Hope Natural Gas Co.*, 320 U.S. 591, 605 (1944); *see also Permian Basin Rate Cases*, 390 U.S. 747, 769-70 (1968) ("price control is 'unconstitutional . . . if arbitrary, discriminatory, or demonstrably irrelevant to the policy the legislature is free to adopt. . . .'"), *quoting Nebbia v. People of State of New York*, 291 U.S. 502, 539 (1934); *Duquesne Light Co. v. Barasch*, 488 U.S. 299 (1989). The Commission must prescribe a rate that permits PSPs to recover their costs plus a reasonable return on investment. It would be clearly arbitrary for the Commission to deny PSPs a rate increase, demonstrably needed to recover costs, based on unsupported speculation that such a rate increase would unduly suppress demand for payphone service.

D. The Commission Should Not Abandon The *Third Payphone Order* Methodology On The Incorrect Theory That The Cross-Elasticity Of Demand Between Payphone Services And Wireless Service Is High

The *NPRM* seeks comment on the cross-elasticity of demand between payphones and wireless service. *NPRM*, ¶ 27. As explained above, assuming that there is any significant cross-elasticity, it is likely to be the very high overall retail rates often charged by IXCs, not a 25-cent increase in the dial-around compensation rate, that deters dial-around calling.

Furthermore, to the extent that retail dial-around rates do increase, they are unlikely to significantly affect wireless usage. Payphone service and wireless service are not perfect substitutes. Payphone service is unique in that it is a dial-tone-on-demand, per-use-priced wireline service available twenty-four hours a day, seven days a week, 365 days a year. It is available at public terminals that are outside the user's control and do not require the user to subscribe to a service or even to provide a terminal device. Wireless service, by contrast, requires a subscription with a monthly charge, and requires the user to supply the terminal device, the mobile phone, which requires expenditure and maintenance by the user. On the other hand, by buying a cell phone and subscribing to cell phone service, the user greatly increases the convenience with which he or she can access the network while away from home.[8]

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8 It is of course true that once a consumer has made the decision to subscribe to a wireless service, the decision whether to use a payphone or the mobile phone for a particular call will be influenced by the marginal cost of that call. But the cost of a payphone call is likely only a marginal factor in the determination whether to subscribe to a wireless service, invest in a handset, etc.

Thus, the elasticity interaction between payphones and cell phones is highly complicated. Simple assumptions about price increases driving payphone users to wireless simply do not apply. Indeed, it is likely that the paramount consideration for many payphone users is not cost but availability. The increased use of wireless services is probably driven to a great degree by the greater convenience of wireless phones than by the relative prices of payphones and wireless service. To the extent that PSPs are denied increased compensation due to concerns about driving to wireless, the reduction in the supply of payphones is likely to cause the very effect that the Commission seeks to avoid.

Further, as also suggested above, even if a dial-around compensation rate increase might cause many people to switch to wireless service, PSPs can always charge a lower dial-around rate than the default rate. In addition, IXCs can block dial-around calls. Thus, it is *not* an increase in the dial-around rate that will cause payphone users to switch to wireless phones.

In any event, the Commission cannot fail in its responsibility of ensuring that PSPs are fairly compensated for each and every call as a result of the unlikely possibility that a rate increase will cause individuals to switch to wireless service.

E. The *Third Payphone Order* Methodology Should Not Be Replaced With A Caller-Pays System

The Commission rejected the caller-pays methodology in the *Third Payphone Order* and should not entertain it again here. As the *Third Payphone Order* explained, "the statutory language and legislative history indicate Congress's disapproval of a caller-pays methodology." *Third Payphone Order* at 2597, ¶ 115.[9] Since neither the

[9] Section 226, the predecessor compensation provision, bars the Commission from concluding that compensation for compensable calls must be paid by the caller. See S. Rep. No. 101-439 at 20 (1990). Section 226(e)(2) provides that "[t]he Commission shall

statutory language nor the legislative history has changed there is no basis for the Commission to upset its precedent.

Moreover, contrary to Congressional directives, a caller pays methodology would cause the payphone base to further contract. A significant value of payphones is that they offer callers the option to make "coinless" calls. If the Commission institutes caller-pays, that value would disappear. By forcing payphone users to have coins on hand to make all payphone calls, a caller-pays approach would do far more than any rate increase to suppress demand for payphone service. The Commission should not consider a system that would injure both consumers and PSPs and would be contrary to the Commission's Congressional mandate.

IV. APCC'S COST STUDY FAITHFULLY FOLLOWS, AND IMPROVES UPON, THE METHODOLOGY USED IN THE *THIRD PAYPHONE ORDER*

The APCC Cost Study, prepared for APCC by the economic and regulatory consulting firm of Wood & Wood (the "APCC Cost Study"), demonstrates that the $.24 rate is well below cost. The APCC Cost Study faithfully follows the Commission's methodology in the *Third Payphone Order*. Indeed, the methodologies used in the APCC Cost Study and the *Third Payphone Order* are virtually identical. APCC merely updated the inputs, added an additional cost category for collection costs and adjusted for bad debt by including in the call count only those dial-around calls for which PSPs were actually compensated.

(Footnote continued)
consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones." 47 U.S.C. § 226(e)(2). Nothing in Section 276 indicates any reconsideration by Congress of its disapproval of caller-pays compensation for dial-around calls.

Both the *Third Payphone Order* and the APCC Cost Study use a "bottom-up" cost-based methodology. This methodology starts at zero and adds up the joint and common costs of payphone operations. Joint and common costs are those costs that cannot be entirely attributed to either coin calls or dial-around calls. The *Third Payphone Order* identified five categories of joint and common costs. These include capital costs, excluding the cost of the payphone's coin mechanism; line costs; maintenance costs; sales, general and administrative ("SG&A") costs; and FLEX ANI costs. These same cost categories are included in the APCC Cost Study. Since these joint and common costs are attributable to all call types, both methodologies distribute the costs equally over all payphone calls.[10]

Costs that are associated exclusively with a specific type of payphone call are distributed only over the payphone calls of that particular call type. *Third Payphone Order* at 2579, ¶ 75. Apart from the interest element associated with the delay in collecting dial-around compensation, the *Third Payphone Order* did not identify any costs associated exclusively with dial-around calls. The APCC Cost Study, however, includes collection costs and bad debt which are attributable only to dial-around calls, and consistent with the *Third Payphone Order*, the APCC Cost Study distributes dial-around collection costs and bad debt over dial-around calls only.

To derive a per-call rate, both methodologies divide the joint and common costs by the total number of calls from a "marginal" payphone location. The costs associated with dial-around calls only are divided by the number of paid dial-around calls and the

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10 But as discussed in Section V.B., *infra*, the APCC Cost Study only includes payphone calls for which PSPs were compensated, whereas the *Third Payphone Order* distributes joint and common costs over all payphone calls. By including only payphone calls for which PSPs were compensated, the APCC Cost Study accounts for bad debt.

resulting per-call amount is added to the per-call joint and common costs to yield the total per-call rate.[11]

A marginal payphone location is one "where the payphone operator is able to just recoup its costs, including earning a normal rate of return on the assets, but is unable to make payments to the location owner." *Third Payphone Order* at 2607, ¶ 139. In other words, a marginal payphone location is one where the PSP just breaks even[12] and the PSP does not pay the location owner a commission.

To estimate the number of calls from a marginal payphone, the *Third Payphone Order* relied on data submitted by the RBOC Coalition. The RBOC Coalition submitted: "(1) the number of payphone calls that must be placed in order for the premises owner to not have to pay the LEC PSP for the payphone; and (2) the number of payphone calls that must be placed in order for the LEC PSP to begin paying a location payment to the premises owner." *Third Payphone Order* at 2612, ¶ 147. The Commission decided that the midpoint between these two numbers is the average call volume from a marginal payphone. *Id*

APCC's concept of the marginal payphone is the same as the Commission's, and the APCC Cost Study's methodology for calculating call volumes at marginal payphones follows the *Third Payphone Order*'s methodology closely. In the APCC Cost

11 In the APCC Cost Study, as noted, the per-call rate also includes a collection cost element that is calculated by dividing collection costs by the number of dial-around calls from a marginal location.

12 The PSP breaks even in the sense that it does not make "economic profit." The PSP does, however, make a normal rate of return from a marginal location and therefore does generate a modest "accounting profit."

Study, marginal payphone locations are those where the location owner neither received a commission from the PSP nor made payments to the PSP.[13]

While the techniques used by the *Third Payphone Order* and the APCC Cost Study to estimate call volumes at marginal payphones differ slightly, both techniques are reasonable. In fact, the APCC Cost Study's technique for identifying marginal payphones may overestimate call volumes at such phones, thus understating the compensation rate, because the average zero-commission payphone may generate a slight economic profit and have a higher call volume than a "true" break-even payphone.[14]

While the APCC Cost Study uses the same methodology as the *Third Payphone Order*, the inputs used in the APCC Cost Study are based on a wider range of sources. In some cases, the *Third Payphone Order* estimated payphone costs from data provided by only a few PSPs. For example, the Commission estimated payphone maintenance costs from data provided by only SBC and Peoples Telephone. *Third Payphone Order* at 2625-26, ¶ 176. By contrast, the APCC Cost Study is based on data from many different PSPs, representing a diversified range of randomly selected providers. Because the payphone sample was randomly selected from a very large population representing the majority of the independent PSP industry, the range of large and small providers and

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13 The survey asked whether the PSP received any compensation from the location provider or paid any compensation to the location provider. Only payphones for which the PSP answered "no" to both questions were counted as "marginal" payphones.

14 It is rather unlikely that any given payphone will generate revenues that just happen to exactly equal its costs including normal return. On the other hand, there are likely to be many payphones that generate a slight economic profit within a range that does not exceed the administrative and transaction costs involved in paying commissions. For these payphones, it would be unprofitable for the PSP to pay a commission. Thus, the average zero-commission payphone may lie somewhere in this range of slightly profitable payphones.

the diversity of geographic areas and location types represented in the sample accurately reflects the actual diversity of cost characteristics present in the independent PSP industry.[15]

The APCC Cost Study is based on a survey of PSPs that use APCC Services, Inc. ("APCC Services"), APCC's dial-around collection aggregator subsidiary, as their payphone clearinghouse. As more fully described in the APCC Cost Study itself, a database maintained by APCC Services, containing over 400,000 independent payphones operated by more than 1,000 PSPs, was used to generate a random sample of 940 independent PSP payphones. *See* Attachment 1 to APCC Petition, APCC Cost Study, § D.4.1. The sampling was designed to be statistically valid and to ensure a proper geographic weighting. *Id.* A survey was sent to the owners of each of the 940 payphones in the sample, requesting detailed information regarding the costs incurred by, and the calls made from,[16] the payphones in question. *Id.*, §§ D.4.2, D.5.2, D.5.3. The instructions to the survey provided only general information about the purpose of the survey and stressed the need for accurate and unbiased information. To further ensure the integrity of the APCC Cost Study, only Wood & Wood had contact with potential or actual respondents, and respondents were not informed of how their answers would affect results. Moreover, in the course of Wood & Wood's contacts with respondents, PSPs showed no insights into whether a higher or lower reported call count would impact the results in a "beneficial" way. *See* Attachment to Reply of APCC, Declaration

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15 Although LEC payphones were not included in the study, the RBOC Coalition has submitted a study of their payphone costs that yielded similar results.

16 The survey asked for the number of local coin calls, long distance coin calls, 0+ or 0- calls and directory assistance calls. PSPs generally do not have information on the number of completed dial-around calls from a given payphone; dial-around call information was obtained from the payment records maintained by APCC Services.

of Don Wood, ¶¶ 15-19. Responses representing a total of 410 out of 940 payphones surveyed were returned, a fairly high response rate.

To identify marginal payphones, the survey asked a series of questions concerning whether the PSP pays any compensation to or receives any compensation from the location owner. Based on responses to those questions, 108 marginal payphones (*i.e.*, those for which no commissions are paid to the location owner) were identified from among the 410 payphones for which responses were received. *See* Attachment 1 to APCC Petition, APCC Cost Study, § C.3. Only those marginal payphones were used in the cost analysis underlying the rate proposed by APCC. This ensures that the proposed rate reflects the actual costs incurred at, and calls made from, marginal payphones, as required under the Commission's *Third Payphone Order* methodology.

The results of the APCC Cost Study indicate that per-payphone joint and common costs have not changed dramatically since the *Third Payphone Order*. Overall, for the marginal payphones included in the APCC Cost Study, total costs for the cost categories included in the Commission's model were $107.32 per month,[17] or roughly 6% higher than the $101.29 in total costs found by the Commission in the *Third Payphone Order*. *See* Attachment 1 to APCC Petition, APCC Cost Study, § E.2.0.

In contrast to the relatively stable per-payphone costs, the APCC Cost Study shows a precipitous decline in marginal payphone call volumes. Call volumes at marginal payphones fell by nearly half, to 234 from the 439 found by the Commission in the *Third Payphone Order*. *See id.* It is this decline in call volume (and therefore in the

[17] Note that this amount does not include collection costs, which are not joint and common costs and which were not included as a cost category in the *Third Payphone Order*.

number of calls over which costs must be spread) that accounts for most of the increase in per-call dial-around costs, and therefore accounts for most of the need to increase the compensation rate to recover those costs.

V. A NEW DIAL-AROUND RATE SHOULD FACTOR IN COLLECTION COSTS AND BAD DEBT

A. Expenses Incurred In Collecting Dial-Around Compensation Are Significant And Should Be Included In The Compensation Rate

In the *Third Payphone Order*, PSPs argued that dial-around collection costs were attributable entirely to dial-around calls and that such costs should be recovered by distributing them exclusively over the number of dial-around calls at marginal payphones. *Third Payphone Order* at 2620, ¶ 163. The Commission rejected the PSPs' position. Instead, the Commission accounted for certain collection costs by including them in SG&A and did not account at all for other collection costs.[18] The Commission rejected PSPs' argument on two grounds. First, the Commission found that it had "insufficient information on the record to account" for the collection costs. Second, the Commission found that it was not clear whether certain collection costs were attributable exclusively to dial-around calls. *Id.* Significantly, the Commission did *not* find that it would be inappropriate to include collection costs in the costs recoverable in dial-around rates. The Commission factors collection costs into other rates and should do the same here. For example, access charges include collection costs. *See* 47 CFR § 69.406.

[18] The Commission, in the *Third Payphone Order*, included billing expenses in SG&A, but did not account at all for payments made by PSPs to aggregators who provide services used to collect dial-around compensation.

With respect to the Commission's first ground for rejecting PSPs' argument, nearly five years later, more than adequate information is available regarding collection costs. Collection costs can be divided into two categories. The first is the cost of the submitting claims, collecting, and processing of dial-around payments. Most independent PSPs do not perform these functions themselves, but instead contract dial-around collection out to third party aggregators. APCC Services is the largest, representing some 400,000 payphones. APCC Services charges its customers a per-phone fee to submit their dial-around payment requests to the interexchange carrier, and then collect and remit the payment. The APCC Cost Study's estimate of $.007 per call in collection costs includes these fees but excludes individual PSPs' record-keeping costs, resulting in a conservative estimate of routine collection costs.

The second category of costs included in the $.007 estimate of collection costs comprises the cost of litigating to collect dial-around compensation from the many carriers who have failed to meet their payment obligations. This is a huge cost which cannot be ignored. The independent payphone industry currently is pursuing numerous active cases against major IXCs to collect unpaid dial-around compensation, and numerous other cases have been settled or dismissed.[19] The AT&T case, which was

[19] *See, e.g., APCC Servs., Inc. v. AT&T Corp.*, Civ. No. 99-0696 (D.D.C.); *APCC Servs., Inc. v. WorldCom*, Civ. No. 01-0638 (D.D.C.); *APCC Servs., Inc. v. Sprint Communications, Co., L.P.*, Civ. No. 01-0642 (D.D.C.); *CFL v AT&T Corp.*, Civ. No. 01-1531 (D.D.C.); *APCC Servs., Inc v. Cable & Wireless, Inc*, Civ. No. 02-0158; *APCC Servs., Inc. v. Qwest Communications Corp.*, Civ. No. 02-cv-07059 (C.D. CA). *Flying J, Inc. v. Sprint Communications Co.*, Civ. No. 99-111-ST (D. Utah); *GCB Communications, Inc. v. WorldCom, Inc*, Civ. No. 00-1216 (D. Ariz.); *Metrophones Telecomms., Inc. v. Global Crossing Telecomms et al.*, No. C03-0694 (W.D. Wash.); *Metrophones Telecomms., Inc. v. Southwestern Bell Communication Services, Inc. and Wiltel Communications, Inc.*, No. C03-0809P (W.D. Wash.). *See also Greene v. Sprint Communications Co.*, 340 F.3d 1047 (9th Cir. 2003); *Phone-Tel Communications, Inc. v. AT&T Corp.*, 100 F. Supp. 2d 313 (E.D. Pa. 2000); *PhoneTel Techs., Inc. v. Network Enhanced Telecomm.*, 197 F. Supp. 2d 720 (E.D. Tex. 2002); *Precision Pay Phones v. Qwest Communications Corp.*, 210 F. Supp. 2d 1106 (N.D. Cal. 2002); *In re Qwest Communications Corp. Payphone Service Providers Compensation Litig.*,

the first to be filed, has been pending for over four years. Over a half million pages of documents have been produced and the case still has not been set for trial. If all of the cases proceed along similar paths, the costs will continue to be enormous.

In addition to the court cases pending against the major IXCs, the independent PSP industry has also pursued numerous court cases and dozens of FCC complaint proceedings against various resellers who refused to meet their dial-around obligations during the period between October 7, 1997 and November 23, 2001, when switch-based resellers were required to pay compensation for calls completed from their call processing platforms. *See* Attachment 1 to these comments. While the PSP industry expenditures on collection of compensation from resellers diminished somewhat after the Commission amended its rules to shift payment responsibilities for reseller calls to facilities-based carriers, those expenditures will certainly increase now that the Commission has reimposed a SBR-pays rule. *See* APCC, Petition for Reconsideration or Clarification, filed December 8, 2003, in CC Docket No. 96-128.

While much smaller in scale than the cases against the major carriers, these court cases and complaint proceedings collectively consume enormous legal resources. Even the smallest complaint proceeding can generate tens of thousands of dollars in legal fees. As only the carriers have the call information necessary to calculate the amount of dial-around compensation they owe, often the only way to determine that a case is too small to warrant prosecution is to litigate it to the point where the reseller is forced to come forward with the information.

(Footnote continued)
No. 02-ML-1483 (TJH) (C.D. Cal. August 15, 2003); *Bell Atlantic-Delaware, Inc. v. MCI Telecomms. Corp.*, 17 FCC Rcd 15918 (2002); *APCC Servs., Inc. v. Verizon Communications, Inc.*, File No. EB-02-MDIC-0082.

The amounts of these two categories of collection costs were derived from data maintained by APCC Services.[20] Dial-around collection costs should only be recovered from dial-around calls since they are attributable entirely to dial-around calls. While there are also collection costs that are attributable solely to coin calls, the FCC excluded coin collection costs from its calculation of joint and common costs. Similarly, it is appropriate to determine dial-around specific collection costs and attribute those costs solely to dial-around calls.

Collection expenses are as real as any other cost and failure to include those costs in the dial-around rate would fail to fairly compensate PSPs. Based on information provided by APCC regarding collection fees and litigation costs, the APCC Cost Study has estimated that average collection fees and litigation costs total $.007 per call.

B. The Commission Should Factor Bad Debt Into The New Dial-Around Compensation Rate

PSPs frequently are never paid the dial-around compensation that they are owed. Any rate that does not factor in bad debt would therefore undercompensate PSPs.

In the *Third Payphone Order* the Commission found that inclusion of bad debt was unwarranted because the record did not include information adequate to quantify the

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[20] In addition to serving as an agent of PSPs for purposes of collecting and distributing dial-around compensation, APCC Services administers a litigation fund, which is funded by PSPs. To calculate the per-call cost of litigation to collect dial-around compensation, APCC Services first calculated the total litigation expenses incurred by the PSPs in attempting to collect unpaid compensation for a three-year period for the PSPs for which APCC Services provides collection services. Then APCC Services divided that result by the number of calls for which compensation was paid for that three-year period. With respect to the cost of collecting and processing dial-around payments, APCC calculated average per-call collection costs by dividing the per-phone fee charged by APCC Services to its PSP customers, by the number of paid calls from an average payphone. The APCC Cost Study added together the litigation per-call costs and the collection and processing per-call costs to obtain total per-call collection costs.

level of bad debt. *Third Payphone Order* at 2619, ¶ 162. The Commission was also concerned that "PSPs that ultimately recover their uncollectibles from delinquent carriers would then double recover: once from the debtor and once from the consumer, *i.e.*, through the cost element included in the compensation amount." *Id*. Significantly, however, the Commission was not opposed to the principle of including an element for bad debt. Indeed, the Commission has a long history of allowing carriers to recover the cost of bad debt. For example, with respect to rate of return carriers, the cost of bad debt is "reflected in the rate base that they use to calculate the 11.25 percent allowed rate of return." *National Exchange Carrier Ass'n Inc., Tariff FCC No. 5, Transmittal No. 952,* Order, 17 FCC Rcd 22595, ¶ 3 (2002).

One significant source of bad debt is the numerous resellers that have failed to pay dial-around compensation and owe PSPs less than one hundred thousand dollars. PSPs are unlikely to ever collect such debt because of the difficulty of identifying and tracking down these carriers and the inability to litigate for relatively small sums of money in a cost-effective manner. *See* APCC, Petition for Reconsideration or Clarification, filed December 8, 2003 in CC Docket No. 96-128.

The APCC Cost Study includes bad debt by including in its determination of call volumes only those calls for which PSPs were actually compensated. By factoring in bad debt this way the APCC Cost Study renders irrelevant the Commission's concern regarding the accuracy of an estimate for bad debt. Thus, bad debt should be taken into account in the manner suggested by APCC.

VI. THE DIAL-AROUND RATE CALCULATION CANNOT FACTOR IN OTHER REVENUE SOURCES AND SHOULD NOT BE MODIFIED BY USING SECOND-HAND PAYPHONES TO ESTIMATE CAPITAL COSTS

A. The Commission Cannot Consider Revenues And Costs Of Additional PSP Services

The Commission should not, as a matter of policy, and cannot, as a matter of law, take advertising or other non-telecommunications revenue into account in this or any other cost-recovery proceeding.

PSPs' advertising revenues have absolutely nothing to do with PSPs' "regulated"[21] activities and are irrelevant to this proceeding. The Commission can no more consider PSPs' advertising revenues in setting the dial-around rate than it can consider a local exchange carrier's non-telecommunications revenue in a rate-of-return proceeding.[22] Non-telecommunications revenue such as advertising is wholly incidental to the primary purpose for which payphones are installed – to provide access to telecommunications.

Moreover, even assuming that the Commission could validly allocate some payphone *costs* to non-telecommunications activities, attempting to do so would greatly increase the complexity of the Commission's task. Rather than simply allocating joint and common costs based on the number of payphone calls, the Commission would face the extremely difficult task of determining an allocation of costs between the actual use

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21 "Regulated" here means subject to the Commission's prescription of dial-around compensation pursuant to Section 276.

22 A primary purpose of the Commission's *Computer III* order was to separate a company's regulated and unregulated activities to "guarantee that regulated revenue properly follows regulated costs, and unregulated revenue follows unregulated costs." *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Remand and Notice of Proposed Rulemaking, 17 FCC Rcd 3248, 3268, ¶ 53 (2002); *see also Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, Report and Order, 104 F.C.C.2d 958, 1086 (1986).

of the payphone to make calls and the occasional use of a payphone enclosure as a billboard.

Fortunately, the Commission need not address the questions of whether and how it could validly allocate costs to advertising, because the amount of advertising revenue generated by the industry is *de minimis.*

1. Advertising Revenues

PSPs generate very little revenue from advertising. Anecdotal reports from PSPs active in the market indicate that, even if permitted by law,[23] payphone booth advertising is rarely seen outside of very large urban areas such as New York City and Los Angeles. Even in a state such as New York – one of the few where advertising appears to have had any impact – a very low percentage of payphones have advertising. Needless to say, the Commission need not consider a revenue source that is available to only a very small fraction of the payphone base.

Furthermore, if advertising revenue is insignificant for the average payphone, it is virtually nonexistent for marginal payphones. To be effective, ads generally must be placed in areas with very high concentrations of pedestrian traffic. Almost by definition, areas with sufficient pedestrian traffic to attract advertising will not be marginal payphone locations.

2. Internet Revenues

Internet terminals, like advertisements, are placed in areas that have high pedestrian traffic; they are not placed in marginal locations. Thus, these revenues

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23 This is not the case everywhere. *See e.g., Florida Public Telecommunications Ass'n, Inc. v. City of Miami Beach,* 321 F.3d 1046, 1054-55 (11th Cir. 2003) (city's ban on advertising on payphones in the public rights-of-way is within city's authority).

should not be considered when prescribing a rate that is designed to preserve marginal payphones.[24]

If, in spite of the above, the Commission did consider internet revenues, the Commission would have to make major modifications to its methodology. Internet facilities have a completely different cost structure and are significantly more expensive than regular payphone facilities. Payphones that offer internet service have computer screens, key pads and a host of other equipment that completely changes the nature and cost structure of the payphone operation. Those costs are not reflected in APCC's Cost Study since none of its marginal payphones offer internet service. It makes little sense for the Commission to consider internet revenues on the one hand, but ignore internet facilities' far greater expense on the other.

B. The Commission Should Not Use Second-Hand Payphones To Estimate Capital Costs

APCC's estimates for capital costs already reflect the widespread availability of used payphone equipment at depressed prices. The prices of new goods reflect the availability and prices of used goods. Because of the relationship between the prices of used and new equipment, prices for new payphone equipment will be relatively low. Thus, the availability of used equipment is already factored into APCC's Cost Study.

In addition, basing capital costs on the price of used equipment is bad policy since if the Commission prescribes a dial-around rate such that PSPs can maintain marginal payphones only by recycling used equipment, the quality of service would diminish to the detriment of the public and further erode the payphone base.

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24 Anecdotal reports from PSPs active in the market indicate that in the state of New York, fewer than one percent of all payphones have internet terminals.

CONCLUSION

For the foregoing reasons, the Commission should amend its rules to increase the dial-around compensation rate to an amount that enables PSPs to recover the costs of a marginal payphone, as demonstrated in this proceeding.

Dated: January 7, 2004

Respectfully submitted,

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ATTACHMENT 1

EXAMPLES OF COMPENSATION COLLECTION ACTIONS AGAINST RESELLERS

I. COURT ACTIONS

Metrophones Telecomms Inc. v. Vartec Telecom, Inc., No. C03-0811P (W.D. Wash.)

APCC Servs., Inc. v. PT-1 Communications, Inc., Civ. No. 99-424-A (E.D. Va.)

APCC Servs., Inc. v. EconoPhone, Inc., Civ. No. 99-425-A (E.D. Va.)

APCC Servs., Inc. v. Business Telecom, Inc., Civ. No. 99-426-A (E.D. Va.)

APCC Servs., Inc. v. STAR Telecommunications, Inc., Civ. No. 99-427-A (E.D. Va.)

APCC Servs., Inc. v. Pacific Gateway Exchange, Inc., Civ. No. 99-428-A (E.D. Va.)

APCC Servs., Inc. v. UniDial Communications, Inc., Civ. No. 99-429-A (E.D. Va.)

APCC Servs., Inc. v Primus Telecommunications, Inc., Civ. No. 99-430-A (E.D. Va.)

APCC Servs., Inc. v Twister Communications Network, Inc., Civ. No. 99-1189-A (E.D. Va.)

APCC Servs., Inc. v. VoCall Communications Corp, Civ. No. 99-1738-A (E.D. Va.)

APCC Servs., Inc. v. Puerto Rico Telephone Co, Civ. No. 99-2365 (JAF) (D.P.R.)

APCC Servs., Inc. v. PT-1 Communications, Inc., Civ. No. 00-93-A (E.D. Va.)

APCC Servs., Inc. v Equalnet Corp., Civ. No. 01-0509 (ESH) (D.D.C.)

APCC Servs., Inc. v. Network Plus, Inc, Civ. No. 00-1510 (ESH) (D.D.C.)

APCC Servs., Inc. v Nextlink DC, Inc., Civ. No. 00-1514 (ESH) (D.D.C.)

APCC Servs., Inc. v Pick Communications Corp, Civ. No. 00-1516 (ESH) (D.D.C.)

APCC Servs., Inc. v. OCI, Inc., Civ. No. 00-1521 (ESH) (D.D.C.)

APCC Servs, Inc v. Williams Communications, Inc, Civ. No. 00-1522 (ESH) (D.D C.)

APCC Servs, Inc. v Oncor Communications, Inc., Civ. No. 00-1523 (ESH) (D.D.C.)

APCC Servs., Inc. v WorldAccess Inc., Civ. No. 200CV01512 (ESH) (D.D.C.)

APCC Servs., Inc. v. VoCall Communications Corp., Civ. No. 01-191-A (E.D. Va.)

APCC Servs., Inc v. Global Crossing Telecommunications, Inc., Civ. No. 01CV 710 (ESH) (D.D.C.)

II. FCC COMPLAINT PROCEEDINGS

A. Formal Complaints

APCC Servs., Inc. v. Advanced Business Telephone, File No. EB-02-MD-007

APCC Servs., Inc. v. Bee Line Long Distance, File No. EB-02-MD-008

APCC Servs., Inc. v. Gadjraj & Sons Import & Export, Inc., File No. EB-02-MD-009

APCC Servs., Inc. v. Tekbilt World Communications, Inc., File No. EB-02-MD-011

APCC Servs., Inc. v. TS Interactive, Inc., File No. EB-02-MD-012

APCC Servs , Inc. v. ATX Telecommunications Services, File No. EB-03-MD-018

B. Informal Complaints

APCC Servs , Inc. v. Orion Telecommunications Corp., File No. EB-03-MDIC-0002

APCC Servs , Inc. v GlobalNet International, Inc , File No. EB-02-MDIC-0003

APCC Servs., Inc. v Rapid Link USA, Inc., File No. EB-02-MDIC-0012

APCC Servs., Inc v Radiant Telecom, File No. EB-02-MDIC-0013

APCC Servs., Inc v. Viva Telecom, File No. EB-02-MDIC-0014

APCC Servs., Inc v ESSENTIAL .COM, File No. EB-02-MDIC-0015

APCC Servs , Inc. v. N.E T., File No. EB-02-MDIC-0016

APCC Servs., Inc v Network IP, Inc , File No EB-02-MDIC-0017

APCC Servs., Inc v Transcommunications, Inc., File No. EB-02-MDIC-0020

APCC Servs , Inc. v U.S. South/GCS Communications, Inc., File No. EB-02-MDIC-0021

APCC Servs., Inc v Charter Communications International, File No. EB-02-MDIC-0022

APCC Servs., Inc v. American International Telephone, Inc , File No. EB-02-MDIC-0023

APCC Servs., Inc v Latin American Enterprises, File No. EB-02-MDIC-0024

APCC Servs., Inc. et al. v. GE Exchange, File No. EB-02-MDIC-0026

APCC Servs., Inc. v Topp Telecom/CT, File No. EB-02-MDIC-0027

APCC Servs., Inc. v. First Communications, File No. EB-02-MDIC-0030

APCC Servs., Inc. v. ACCA, File No. EB-02-MDIC-0031

APCC Servs., Inc. v. Assoc. Communications Companies of America, File No. EB-02-MDIC-0055

APCC Servs., Inc. v. Broadwing Communications Services, File No. EB-02-MDIC-0056

APCC Servs., Inc. v. LCI International Telecom Corp., File No. EB-02-MDIC-0057

APCC Servs., Inc. v. McLeod USA, File No. EB-02-MDIC-0058

APCC Servs., Inc. v. Network Communications International Corp., File No. EB-02-MDIC-0059

APCC Servs., Inc. v. RSL COM U.S.A. Inc., File No. EB-02-MDIC-0060

APCC Servs., Inc v Telephone Electronics Corp., File No. EB-02-MDIC-0062

APCC Servs , Inc v TXU Communications Telecom Services, Inc , File No. EB-02-MDIC-0063

APCC Servs , Inc v Pointe Communications, Inc., File No. EB-02-MDIC-0068

APCC Servs., Inc. v Cooperative Communications, Inc., File No. EB-02-MDIC-0069

APCC Servs., Inc v. United Technological Systems, File No. EB-02-MDIC-0070

APCC Servs , Inc v Network IP, Inc , File No. EB-02-MDIC-0071

APCC Servs., Inc. v Dancris Telecom, File No. EB-02-MDIC-0072

APCC Servs., Inc. v. ALLTEL Long Distance, Inc., File No. EB-02-MDIC-0073

APCC Servs , Inc. v. World-Link, Inc., File No. EB-02-MDIC-0074

APCC Servs , Inc v Latin American Enterprises, File No. EB-02-MDIC-0075

APCC Servs , Inc v TecNet, Inc., File No. EB-02-MDIC-0076

APCC Servs., Inc. v. CCI Communications, Inc., File No. EB-02-MDIC-0077

APCC Servs , Inc. v. Vertex Group d/b/a Premiere Telemedia, Inc., File No. EB-02-MDIC-0078

APCC Servs., Inc v. Gateway Technologies, Inc, File No. EB-02-MDIC-0079

APCC Servs., Inc. v. CenturyTel Long Distance, File No. EB-02-MDIC-0080

APCC Servs., Inc. v. U.S. Advanced Network, Inc., File No. EB-02-MDIC-0082

APCC Servs., Inc. v ATX Telecommunications Services, File No. EB-02-MDIC-0083

APCC Servs, Inc v. Linq Telecom, Inc., File No. EB-02-MDIC-0084

APCC Servs., Inc. v United Communications Systems, Inc., File No. EB-02-MDIC-0085

APCC Servs., Inc. v. Reems Communications, Inc., File No. EB-MDIC-0086

APCC Servs., Inc. v. Vocall Communications Corp., File No. EB-02-MDIC-0087